200 TAXATION

The financing pattern of the State laws is influenced by the Federal Unemployment Tax Act (FUTA), since employers may credit toward the Federal payroll tax the State contributions which they pay under an approved State law. They may credit also any savings on the State tax under an approved experience-rating plan. The total credit against the Federal tax allowed employers for their contributions under approved State laws is limited to 5.4 percent. There is no Federal tax levied against employees.

The Federal payroll tax increased from 3.0 percent to 3.1 percent, effective January 1, 1961; from 3.1 percent to 3.2 percent, effective January 1, 1970; from 3.2 percent to 3.4 percent, effective January 1, 1977; from 3.4 percent to 3.5 percent effective January 1, 1983; and from 3.5 percent to 6.2 percent, effective January 1, 1985.

205 SOURCE OF FUNDS

All the States finance unemployment benefits mainly by contributions from subject employers on the wages of their covered workers; in addition, three States collect employee contributions. The funds collected are held for the States in the unemployment trust fund in the U.S. Treasury, and interest is credited to the State accounts. Money is drawn from this fund to pay benefits or to refund contributions erroneously paid.

States with depleted reserves may, under specified conditions, obtain advances from the Federal unemployment account to finance benefit payments. If the required amount is not restored by November 10 of a specified taxable year, the allowable credit against the Federal tax for that year is decreased in accordance with the provisions of section 3302(c) of the Federal Unemployment Tax Act. Beginning in 1982 a State's decrease in allowable credit is capped (starting with 1981 wages) if the State meets certain solvency requirements. Interest is now added to the formerly interest free advances from the Federal unemployment account.

205.01 EMPLOYER CONTRIBUTIONS.--In most States the standard rate--the rate required of employers until they are qualified for a rate based on their experience--is 5.4 percent, the maximum allowable credit against the Federal tax. Similarly, in some States, the employer's contribution, like the Federal tax, is based on the first $7,000 paid to (or earned by) a worker within a calendar year. Deviations from this pattern are shown in Table 200.

Most States follow the Federal pattern in excluding from taxable wages payment by the employee's tax for Federal old-age and survivors insurance, and payments from or to certain special benefit funds for employees. Under the State laws, wages include the cash value of remuneration paid in any medium other than cash and tips received in the course of employment and included in a written statement furnished to the employee.

In every State an employer is subject to certain interest or penalty payments for delay or default in payment of contributions, and usually incurs penalties for failure or delinquency in making reports. Wyoming also requires large employers working on temporary projects in the State to post a bond in addition to contributions to insure payment of all benefits ultimately due its former employees. In addition, the State administrative agencies have legal recourse to collect contributions, usually involving jeopardy assessments, levies, judgments, liens, and civil suits.

The employer who has overpaid contributions is entitled to a refund in every State. Such refunds may be made within time limits ranging from 1 to 6 years; in a few States no limit is specified.

205.02 STANDARD RATES.--The standard rate of contributions under all but a few State laws is 5.4 percent. Some States charge a higher standard rate for employer's with a negative balance. In Maryland the standard rate is 7.5 percent, in Utah 8.0 percent and in Wyoming 8.5 percent. In North Dakota, the standard rate is the maximum rate in effect for a year. Kansas, Missouri and Rhode Island have no standard contribution rate, although employers in Kansas not eligible for an experience rate, and not considered as newly covered, pay at the maximum rate; Oregon has no standard rate and employers not eligible for an experience rate pay at rates ranging from 2.7 to 3.5 percent, depending on the rate schedule in effect for rated employers.

In most States, new and newly-covered employers pay a rate lower than the standard rate until they meet the requirements for experience rating (Table 202). In a few States they pay the standard rate, while in some States they pay a higher rate because of provisions requiring all employers to pay an additional contribution. In Wisconsin an additional rate of 1.3 percent will be required of a new employer if the account becomes overdrawn and the payroll is $20,000 or more. In other States, the additional contribution provisions are applied when fund levels reach specified points or to restore to the fund amounts expended for noncharged or ineffectively charged benefits. Ineffectively charged benefits include those paid and charged to inactive and terminated accounts and those paid and charged to an employer's experience rating account after the previously charged benefits to the account were sufficient to qualify the employer for the maximum

contribution rate. See section 235 for noncharging of benefits. The maximum total rate that would be required of new or newly-covered employers under these provisions is 2.9 percent in Arkansas; 3.2 percent in Missouri; 3.7 percent in New York; and 4.2 percent in Delaware. No maximum rate is specified for new employers in Wyoming.

205.03 TAXABLE WAGE BASE.--More than half of the States have adopted a higher tax base than that provided in the Federal Unemployment Tax Act. In these States an employer pays a tax on wages paid to (or earned by) each worker within a calendar year up to the amount specified in Table 200. In addition, most of the States provide an automatic adjustment of the wage base if the Federal law is amended to apply to a higher wage base than that specified under State law (Table 200).

205.04 EMPLOYEE CONTRIBUTIONS.--Only Alaska, New Jersey and Pennsylvania collect employee contributions and of the nine States[1] that formerly collected such contributions, only New Jersey does so now. The wage base used for the collection of employee contributions is the same as used for their employers (Table 200). Employee contributions are deducted by the employer from the workers' pay and sent with the employer's own contribution to the State agency. In New Jersey employees pay contributions as high as 0.40 percent. In Alaska employee contribution rates vary from 0.5 percent to 1.0 percent, depending on the rate schedule in effect. In Pennsylvania employees pay contributions of 0.1 percent of all wages paid for employment.

205.05 FINANCING OF ADMINISTRATION.--The Social Security Act undertook to assure adequate provisions for administering the unemployment insurance program in all States by authorizing Federal grants to States to meet the total cost of "proper and efficient administration" of approved State unemployment insurance laws.

Receipts from the residual Federal unemployment tax--0.3 percent of taxable wages through calendar year 1960, 0.4 percent through calendar year 1969; 0.5 through 1976; 0.7 through 1982; and 0.8 thereafter--are automatically appropriated and credited to the employment security administration account--one of three accounts--in the Federal Unemployment Trust Fund. Congress appropriates annually from the administration account the funds necessary for administering the Federal-State employment security program. A second account is the Federal unemployment account. Funds in this account are available to the State for repayable advances to States with low reserves with which to pay benefits. A third account--the extended unemployment compensation account--is used to reimburse the States for the Federal share of Federal-State extended benefits.

On September 30th of each year the net balance and the excess in the employment security administration account are determined. Under Public Law 91-373, enacted in 1970, no transfer from the administration account to other accounts is made until the amount in that account is equal to 40 percent of the prior years appropriation by Congress. Transfers to the extended unemployment compensation account from the employment security administration account are equal to one-tenth (before April 1972, one-fifth) of the net monthly collections. After June 30, 1972, the maximum fund balance in the extended unemployment compensation account will be the greater of $750 million or 0.5 percent of total wages in covered employment for the preceding calendar year. At the end of the fiscal year, any excess not retained in the administration account or not transferred to the extended unemployment compensation account is used first to increase the Federal unemployment account to the greater of $550 million or 0.25 percent of total wages in covered employment for the calendar year. Thereafter, except as necessary to maintain legal maximum balances in these three accounts, excess tax collections are to be allocated to the accounts of the States in the unemployment trust fund in the same proportion that their covered payrolls bear to the aggregate covered payrolls of all States.

The sums allocated to the States' trust accounts are to be generally available for benefit purposes. Under specified conditions a State may, however, through a special appropriation act of its legislature, use the allocated sums to supplement Federal administrative grants in financing its operation. Forty-six[2] States have amended their unemployment insurance laws to permit use of some of such sums for administrative purposes, and most States have appropriated funds for buildings, supplies, and other administrative expenses.

205.06 SPECIAL STATE FUNDS.--Fifty-one[3] States have set up special administrative funds, made up usually of interest on delinquent contributions, fines and penalties, to meet special needs. The most usual statement of purpose includes one or more of these three items: (1) to cover expenditures for which Federal funds have been requested but not

[1] Alabama, California, Indiana, Kentucky, Louisiana, Massachusetts, New Hampshire, New Jersey and Rhode Island
[2] All States except Delaware, District of Columbia, Illinois, North Carolina, Oklahoma, Puerto Rico and South Dakota
[3] All States except Montana and North Dakota

yet received, subject to repayment to the fund; (2) to pay costs of administration found not to be properly chargeable against funds obtained from Federal sources; and (3) to replace funds lost or improperly expended for purposes other than, or in amounts in excess of, those found necessary for proper administration. A few of these States provide for the use of such funds for the purchase of land and erection of buildings for agency use, for the payment of interest on Federal advances, and in North Carolina, for enlargement, extension, repairs or improvement of buildings and for the temporary stabilization of Federal funds cash flow. In Maine, money from this fund may be transferred to the Wage Assurance Fund established to assure employees a week of wages when an employer has terminated a business with no assets for payment of wages or when he files bankruptcy. In New York the fund may be used to finance training, subsistence, and transportation allowances for individuals receiving approved training. In Indiana the fund may be used to finance training and for counseling assistance. In Puerto Rico the fund may be used to pay benefits to workers who have partial earnings in exempt employment. In some States the fund is limited; when it exceeds a specified sum the excess is transferred to the unemployment compensation fund or, in one State, to the general fund. Fewer than half of the States have enacted special funds to pay interest on Federal advances.

210 TYPE OF FUND

The first State system of unemployment insurance in this country (Wisconsin) set up a separate reserve for each employer. To this reserve were credited the contributions of the employer and from it were paid benefits to the employees so long as the account had a credit balance. Most of the States enacted "pooled-fund" laws on the theory that the risk of unemployment should be spread among all employers and that workers should receive benefits regardless of the balance of the contributions paid by the individual employer and the benefits paid to such workers. All States now have pooled unemployment funds.

215 EXPERIENCE RATING

All State laws have in effect some system of experience rating by which individual employers' contribution rates are varied from the standard rate on the basis of their experience with the risk of unemployment. For special financing provisions applicable to governmental entities, see section 250.

215.01 FEDERAL REQUIREMENTS FOR EXPERIENCE RATING.--State experience-rating provisions have developed on the basis of the additional credit provisions of the Social Security Act, now the Federal Unemployment Tax Act, as amended. The Federal law allows employers additional credit for a lowered rate of contribution if the rates were based on not less than 3 years of "experience with respect to unemployment or other factors bearing a direct relation to unemployment risk." This requirement was modified by amendment in 1954 which authorized the States to extend experience-rating tax reductions to new and newly covered employers after they have had at least 1 year of such experience. The requirement was further modified by the 1970 amendments which permitted the States to allow a reduced rate (but not less than one percent) on a "reasonable basis".

215.02 STATE REQUIREMENTS FOR EXPERIENCE RATING.--In most States 3 years of experience with unemployment means more than 3 years of coverage and contribution experience. Factors affecting the time required to become a "qualified" employer include (1) the coverage provisions of the State law ("at any time" vs. 20 weeks; Table 100); (2) in States using benefits or benefit derivatives in the experience-rating formula, the type of base period and benefit year and the lag between these two periods, which determine how soon a new employer may be charged for benefits; (3) the type of formula used for rate determination; and (4) the length of the period between the date as of which rate computations are made and the effective date for rates.

220 TYPES OF FORMULAS FOR EXPERIENCE RATING

Under the general Federal requirements, the experience-rating provisions of State laws vary greatly, and the number of variations increases with each legislative year. The most significant variations grow out of differences in the formulas used for rate determinations. The factor used to measure experience with unemployment is the basic variable which makes it possible to establish the relative incidence of unemployment among the workers of different employers. Differences in such experience represent the major justification for differences in tax rates, either to provide an incentive for stabilization of employment or to allocate the cost of unemployment. At present there are four distinct systems, usually

identified as reserve-ratio, benefit-ratio, benefit-wage-ratio, and payroll-decline formulas. A few States have combinations of the systems.

In spite of significant differences, all systems have certain common characteristics. All formulas are devised to establish the relative experience of individual employers with unemployment or with benefit costs. To this end, all have factors for measuring each employer's experience with unemployment or benefit expenditures, and all compare this experience with a measure of exposure--usually payrolls--to establish the relative experience of large and small employers. However, the four systems differ greatly in the construction of the formulas, in the factors used to measure experience and the methods of measurement, in the number of years over which the experience is recorded, in the presence or absence of other factors, and in the relative weight given the various factors in the final assignment of rates.

220.01 RESERVE-RATIO FORMULA.--The reserve-ratio was the earliest of the experience-ratio formulas and continues to be the most popular. It is now used in 33 States (Table 200). The system is essentially cost accounting. On each employer's record are entered the amount of his payroll, his contributions, and the benefits paid to his workers. The benefits are subtracted from the contributions, and the resulting balance is divided by the payroll to determine the size of the balance in terms of the potential liability for benefits inherent in wage payments. The balance carried forward each year under the reserve-ratio plan is ordinarily the difference between the employer's total contributions and the total benefits received by his workers since the law became effective. In the District of Columbia, Idaho and Louisiana, contributions and benefits are limited to those since a certain date in 1939, 1940, or 1941, and in Rhode Island they are limited to those since October 1, 1958, and in Montana those since October 1, 1981. In Missouri they may be limited to the last 5 years if that works to an employer's advantage. In New Hampshire an employer whose rate is determined to be 3.5 percent or over may make an irrevocable election to have his rate computed thereafter on the basis of his 5 most recent years of experience. However, his new rate may not be less than 2.7 percent except for uniform rate reduction based on the fund balance.

The payroll used to measure the reserves is ordinarily the last 3 years but Massachusetts, South Carolina, Virgin Islands and Wisconsin figure reserves on the last year's payrolls only. Idaho and Nebraska use 4 years. Arkansas gives the employer the advantage of the lesser of the average 3- or 5-year payroll, or, at his option, the last year's payroll. New Jersey protects the fund by using the higher of the average 3- or 5-year payroll.

The employer must accumulate and maintain a specified reserve before his rate is reduced; then rates are assigned according to a schedule of rates for specified ranges of reserve ratios--the higher the ratio, the lower the rate. The formula is designed to make sure that no employer will be granted a rate reduction unless over the years he contributes more to the fund than his workers draw in benefits. Also, fluctuations in the State fund balance affect the rate that an employer will pay for a given reserve; an increase in the State fund may signal the application of an alternative tax rate schedule in which a lower rate is assigned for a given reserve and, conversely, a decrease in the fund balance may signal the application of an alternative tax schedule which requires a higher rate.

220.02 BENEFIT-RATIO FORMULA.--The benefit-ratio formula also uses benefits as the measure of experience, but eliminates contributions from the formula and relates benefits directly to payrolls. The ratio of benefits to payrolls is the index for rate variation. The theory is that, if each employer pays a rate which approximates his benefit ratio, the program will be adequately financed. Rates are further varied by the inclusion in the formulas of three or more schedules, effective at specified levels of the State fund in terms of dollar amounts or a proportion of payrolls or fund adequate percentage. In Florida and Wyoming an employer's benefit ratio becomes his contribution rate after it has been adjusted to reflect noncharged benefits and balance of fund. The adjustment in Florida also considers excess payments. In Pennsylvania rates are determined on the basis of three factors--reserve ratio, benefit ratio, and State adjustment. In Michigan rates are also based on the sum of three factors--the employer's experience rate, a State rate to recover noncharged or ineffectively charged benefits, and an adjustment rate to recover fund benefit costs not otherwise recoverable. In Utah rates are based on 3 factors--the reserve factor, social tax and experience. In Texas rates are based on a deficit tax ratio and a State replenishment ratio in addition to the employer's benefit ratio.

Unlike the reserve-ratio, the benefit-ratio system is geared to short-term experience. Only the benefits paid in the most recent 3 years are used in the determination of the benefit ratios except in Utah, Virginia and Washington where the last 4 years of benefits are used and in Iowa, Michigan and Minnesota where the last 5 years of benefits are used (Table 200).

220.03 BENEFIT-WAGE-RATIO FORMULA.--The benefit-wage formula is radically different. It makes no attempt to measure all benefits paid to the workers of individual employers. The relative experience of employers is measured by the separations of workers which result in benefit payments, but the duration of their benefits is not a factor. The separations, weighted with the wages earned by the workers with each base-period employer, are recorded on each

employer's experience-rating record as benefit wages. Only one separation per beneficiary per benefit year is recorded for any one employer, but the charging of any benefit wages has been postponed until benefits have been paid in the State specified: in Oklahoma until payment is made for the second week of unemployment. The index which is used to establish the relative experience of employers is the proportion of each employer's payroll which is paid to those of his workers who become unemployed and receive benefits; i.e., the ratio of his benefit wages to his total taxable wages.

The formula is designed to assess variable rates which will raise the equivalent of the total amount paid out as benefits. The percentage relationship between total benefit payments and total benefit wages in the State during 3 years is determined. This ratio, known as the State experience factor, means that, on the average, the workers who drew benefits received a certain amount of benefits for each dollar of benefit wages paid and the same amount of taxes per dollar of benefit wages is needed to replenish the fund. The total amount to be raised is distributed among employers in accordance with their benefit-wage ratios; the higher the ratio, the higher the rate.

Individual employer's rates are determined by multiplying the employer's experience factor by the State experience factor. The multiplication is facilitated by a table which assigns rates which are the same as, or slightly more than, the product of the employer's benefit-wage ratio and the State factor. The range of the rates is, however, limited by a minimum and maximum. The minimum and the rounding upward of some rates tend to increase the amount which would be raised if the plan were affected without the table; the maximum, however, decreases the income from employers who would otherwise have paid higher rates.

220.04 PAYROLL VARIATION PLAN.--The payroll variation plan is independent of benefit payments to individual workers; neither benefits nor any benefit derivatives are used to measure unemployment. Experience with unemployment is measured by the decline in an employer's payroll from quarter to quarter or from year to year. The declines are expressed as a percentage of payrolls in the preceding period, so that experience of employers with large and small payrolls may be compared. If the payroll shows no decrease or only a small percentage decrease over a given period, the employer will be eligible for the largest proportional reductions.

Alaska measures the stability of payrolls from quarter to quarter over a 3-year period; the changes reflect changes in general business activity and also seasonal or irregular declines in employment.

The payroll variation plan uses a variety of methods for reducing rates. Alaska arrays employers according to their average quarterly decline quotients and groups them on the basis of cumulative payrolls in 10 classes for which rates are specified in a schedule.

225 TRANSFER OF EMPLOYERS' EXPERIENCE

Because of Federal requirements, no rate can be granted based on experience unless the agency has at least a 1-year record of the employer's experience with the factors used to measure unemployment. Without such a record there would be no basis for rate determination. For this reason all State laws specify the conditions under which the experience record of a predecessor employer may be transferred to an employer who, through purchase or otherwise, acquires the predecessor's business. In some States (Table 203) the authorization for transfer of the record is limited to total transfers; i.e., the record may be transferred only if a single successor employer acquires the predecessor's organization, trade, or business and substantially all its assets. In other States the provisions authorize partial as well as total transfers; in these States, if only a portion of a business is acquired by any one successor, that part of the predecessor's record which pertains to the acquired portion of the business may be transferred to the successor.

In most States the transfer of the record in cases of total transfer automatically follows whenever all or substantially all of a business is transferred. In the remaining States the transfer is not made unless the employers concerned request it.

Under most of the laws, transfers are made whether the acquisition is the result of reorganization, purchase, inheritance, receivership, or any other cause. Delaware, however, permits transfer of the experience record to a successor only when there is substantial continuity of ownership and management.

Some States condition the transfer of the record on what happens to the business after it is acquired by the successor. For example, in some States there can be no transfer if the enterprise acquired is not continued (Table 203); in 3 of these States (California, District of Columbia and Wisconsin) the successor must employ substantially the same

workers. In 22 States[4] successor employers must assume liability for the predecessor's unpaid contributions, although in the District of Columbia, Massachusetts and Wisconsin, successor employers are only secondarily liable.

Most States establish by statute or regulation the rate to be assigned the successor employer from the date of the transfer to the end of the rate year in which the transfer occurs. The rate assignments vary with the status of the successor employer prior to the acquisition of the predecessor's business. Over half the States provide that an employer who has a rate based on experience with unemployment shall continue to pay that rate for the remainder of the rate year; the others, that a new rate be assigned based on the employer's own record combined with the acquired record (Table 203).

230 DIFFERENCES IN CHARGING METHODS

Various methods are used to identify the employer who will be charged with benefits when a worker becomes unemployed and draws benefits. Except in the case of very temporary or partial unemployment, compensated unemployment occurs after a worker-employer relationship has been broken. Therefore, the laws indicate in some detail which one or more of the former employers should be charged with the claimant's benefits. In the reserve-ratio and benefit-ratio States, it is the claimant's benefits that are charged, in the benefit-wage States, the benefit wages. There is, of course, no charging of benefits in the payroll-decline systems.

In most States the maximum amount of benefits to be charged is the maximum amount for which any claimant is eligible under the State law. In Arkansas, Colorado, Michigan and Oregon, an employer who willfully submits false information on a benefit claim to evade charges is penalized: in Arkansas, by charging the employer's account with twice the claimant's maximum potential benefits; in Oregon, with 2 to 10 times the claimant's weekly benefit amount; in Colorado, with 1-1/2 times the amount of benefits due during the delay caused by the false statement and all of the benefits paid to the claimant during the remainder of the benefit year; and in Michigan by a forfeiture to the Commission of an amount equal to the total benefits which are or would be allowed the claimant.

In the States with benefit-wage-ratio formulas, the maximum amount of benefit wages charged is usually the amount of wages required for maximum annual benefits; in Alabama and Delaware, the maximum taxable wages.

230.01 CHARGING MOST RECENT EMPLOYERS.--In four States with a reserve-ratio system, Georgia, Maine, New Hampshire and South Carolina, and in Virginia with a benefit-wage-ratio system, the most recent employer gets all the charges on the theory of primary responsibility for the unemployment.

All the States that charge benefits to the last employer relieve the employer of these charges if only casual or short-time employment is involved. Maine limits charges to a most recent employer who employed the claimant for more than 5 consecutive weeks; Kentucky, less than 10 weeks; New Hampshire, more than 4 weeks; Illinois and Virginia, at least 30 days. South Carolina omits charges to employers who paid a claimant less than eight times the weekly benefit.

230.02 CHARGING BASE-PERIOD EMPLOYERS IN INVERSE CHRONOLOGICAL ORDER.--Some States limit charges to base-period employers but charge them in inverse order of employment (Table 204). This method combines the theory that liability for benefits results from wage payments with the theory of employer responsibility for unemployment; responsibility for the unemployment is assumed to lessen with time, and the more remote the employment from the period of compensable unemployment, the less the probability of an employer being charged. A maximum limit is placed on the amount that may be charged any one employer; when the limit is reached, the next previous employer is charged. The limit is usually fixed as a fraction of the wages paid by the employer or as a specified amount in the base period or in the quarter, or as a combination of the two. Usually the limit is the same as the limit on the duration of benefits in terms of quarterly or base-period wages (sec. 335.04).

In Michigan the amount of the charges against any one employer is limited by the extent of the claimant's employment with that employer; i.e., the number of credit weeks earned with that employer. In Colorado charges are omitted if an employer paid $500 or less, and $100 or less in South Dakota.

If a claimant's unemployment is short, or if the last employer in the base period employed the claimant for a considerable part of the base period, this method of charging employers in inverse chronological order gives the same

[4] Arizona, Arkansas, California, District of Columbia, Geogia, Idaho, Illinois, Indiana, Kentucky, Maine, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Mexico, Ohio, Oklahoma, South Carolina, West Virginia and Wisconsin

results as charging the last employer in the base period. If a claimant's unemployment is long, such charging gives much the same results as charging all base-period employers proportionately.

All the States that provide for charging in inverse order of employment have determined, by regulation, the order of charging in case of simultaneous employment by two or more employers.

230.03 CHARGING IN PROPORTION TO BASE-PERIOD WAGES.--On the theory that unemployment results from general conditions of the labor market more than from a given employer's separations, the largest number of States charge benefits against all base-period employers in proportion to the wages earned by the beneficiary with each employer. Their charging methods assume that liability for benefits is inherent in wage payments. This also is true in a State that charges all benefits to a principal employer.

For example in two States employers responsible for a small amount of base-period wages are relieved of charges. A Florida employer who paid a claimant less than $100 in the base period is not charged and in Connecticut if the employer paid $500 or less. See Table 204, footnote 6.

235 NONCHARGING OF BENEFITS

In many States there has been a tendency to recognize that the costs of benefits of certain types should not be charged to individual employers. This has resulted in "noncharging" provisions of various types in practically all State laws which base rates on benefits or benefit derivatives (Table 204). In the States which charge benefits, certain benefits are omitted from charging as indicated below; in the States which charge benefit wages, certain wages are not counted as benefit wages. Such provisions are, of course, not applicable in States in which rate reductions are based solely on payroll decreases.

The omission of charges for benefits based on employment of short duration has already been mentioned (sec. 230, and Table 204, footnote 6). The postponement of charges until a certain amount of benefits has been paid (sec. 220.03) results in noncharging of benefits for claimants whose unemployment was of very short duration. In many States, charges are omitted when benefits are paid on the basis of an early determination in an appealed case and the determination is eventually reversed. In many States, charges are omitted for reimbursements in the case of benefits paid under a reciprocal arrangement authorizing the combination of the individual's wage credits in 2 or more States; i.e., situations when the claimant would be ineligible in the State without the out-of-State wage credits. In Connecticut, Massachusetts and Rhode Island dependents' allowances are not charged to employers' accounts.

The laws in Alabama, Arizona, California, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Minnesota, Mississippi, Missouri, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Tennessee, Utah, Vermont, West Virginia and Wyoming provide that an employer who employed a claimant part time in the base period and continues to give substantial equal part-time employment is not charged for benefits.

Four States (Arkansas, Colorado, Maine, and North Carolina) have special provisions or regulations for identifying the employer to be charged in the case of benefits paid to seasonal workers; in general, seasonal employers are charged only with benefits paid for unemployment occurring during the season, and nonseasonal employers, with benefits paid for unemployment at other times.

The District of Columbia, Georgia, Hawaii, Kansas, Louisiana, Maine, Massachusetts, Mississippi, Montana, New Hampshire, New Mexico, North Carolina, North Dakota, Oregon, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, Washington, and Wyoming provide that benefits paid to an individual taking approved training shall not be charged to the employer's account. In Minnesota and Virginia benefits may be noncharged if an offer to rehire has been refused because the individual is in approved training.

Colorado, Mississippi and Oklahoma provide that benefits paid to an individual hired to replace a serviceperson called into active duty and laid off upon that serviceperson's return shall not be charged to the employer's account. Montana has a similar provision whereby benefits paid to an individual will be noncharged if the employer's business closed because he/she was called for active military duty.

New York established a demonstration project which allows claimants in approved training to receive additional benefits. These additional benefits will be charged to the general account.

Colorado, Connecticut, Nebraska, and New Jersey provide that an employer's account will not be charged for benefits paid to an employee who quit to escape domestic violence.

Another type of omission of charges is for benefits paid following a period of disqualification for voluntary quit, misconduct, or refusal of suitable work or for benefits paid following a potentially disqualifying separation for which no disqualification was imposed; e.g., because the claimant had good personal cause for leaving voluntarily, or because of a job which lasted throughout the normal disqualification period and then was laid off for lack of work. The intent is to relieve the employer of charges for unemployment, caused by circumstances beyond the employer's control, by means other than limiting good cause for voluntary leaving to good cause attributable to the employer, disqualification for the duration of the unemployment, or the cancellation of wage credits. The provisions vary with variations in the employer to be charged and with the disqualification provisions (sec. 425), particularly as regards the cancellation and reduction of benefit rights. In this summary, no attempt is made to distinguish between noncharging of benefits or benefit wages following a period of disqualification and noncharging where no disqualification is imposed. Most States provide for noncharging where voluntary leaving or discharge for misconduct is involved and some States, refusal of suitable work (Table 204). A few of these States limit noncharging to cases where a claimant refuses reemployment in suitable work.

In Florida and South Dakota, benefits are not charged if an individual is discharged for unsatisfactory performance during a probationary period and if there is conclusive evidence of unsatisfactory work and that the probationer was not separated because employment was not of a permanent nature.

In North Carolina benefits are not charged to employer accounts if paid to an individual who separated from work or refused a job resulting from undue family hardship such as unable to obtain adequate childcare or elder care.

In Oregon the employer for is not charged for benefits paid to an individual without any disqualification with respect to a discharge for being unable to satisfy a job prerequisite required by law or administrative rule.

Connecticut has a provision for canceling specified percentages of charges if the employer rehires the worker within specified periods.

Alabama, Colorado, Florida, Georgia, Hawaii, Iowa, Minnesota, North Carolina, North Dakota, Oklahoma, Pennsylvania (limited to the first 8 weeks of benefits), Rhode Island, South Dakota, Tennessee, Texas, Washington (if employer requests the exemption and if the commission approves it), and Wyoming exempt from charging benefits paid for unemployment due directly to a disaster if the claimant would otherwise have been eligible for disaster benefits (Table 204, footnote 12). Connecticut noncharges benefits paid for unemployment resulting from physical damage to a place of employment caused by severe weather conditions. Minnesota also noncharges benefits paid following disasters under certain conditions regardless of eligibility for disaster benefits.

240 REQUIREMENTS FOR REDUCED RATES

In accordance with the Federal requirements for experience rating, no reduced rates were possible in any State during the first 3 years of its unemployment insurance law. Except for Wisconsin, whose law preceded the Social Security Act, no reduced rates were effective until 1940.

The requirements for any rate reduction vary greatly among the States, regardless of type of experience-rating formula.

240.01 PREREQUISITES FOR ANY REDUCED RATES.--Less than half the State laws now contain some requirement of a minimum fund balance before any reduced rate may be allowed. The solvency requirement may be in terms of millions of dollars; in terms of a multiple of benefits paid; in terms of a percentage of payrolls in certain past years; in terms of whichever is greater, a specified dollar amount or a specified requirement in terms of benefits or payroll; or in terms of a particular fund solvency factor or fund adequacy percentage (Table 205). Regardless of form, the purpose of the requirement is to make certain that the fund is adequate for the benefits that may be payable.

A more general provision is included in the New Hampshire law. In New Hampshire a flat rate may be set if the commissioner determines that the solvency of the fund no longer permits reduced rates.

In more than half the States there is no provision for a suspension of reduced rates because of low fund balances. In most of these States, rates are increased (or a portion of all employers' contributions is diverted to a specified account) when the fund (or a specified amount in the fund) falls below the levels indicated in Table 205.

240.02 REQUIREMENTS FOR REDUCED RATES FOR INDIVIDUAL EMPLOYERS.--Each State law incorporates at least the Federal requirements (sec. 215.01) for reduced rates of individual employers. A few require more than 3 years of potential benefits for their employees or of benefit chargeability; a few require recent liability for contributions (Table 200). Many States require that all necessary contribution reports must have been filed and all contributions due must have been paid. If the system uses benefit charges, contributions paid in a given period must have exceeded benefit charges.

245 RATES AND RATE SCHEDULES

In almost all States rates are assigned in accordance with rate schedules in the law; in Nebraska in accordance with a rate schedule in a regulation required under general provisions in the law. The rates are assigned for specified reserve ratios, benefit ratios, or for specified benefit-wage ratios. In Arizona the rates assigned for specified reserve ratios are adjusted to yield specified average rates. In Alaska rates are assigned according to specified payroll declines; and in Connecticut, Idaho, Kansas and Montana according to employers' experience arrayed in comparison with other employers' experience.

245.01 FUND REQUIREMENTS FOR RATES AND RATE SCHEDULES.--In most States the level of the balance in the State's unemployment fund, as measured at a prescribed time each year, determines which one of two or more rate schedules will be applicable for the following year. Thus, an increase in the level of the fund usually results in the application of a rate schedule under which the prerequisites for given rates are lowered. In some States, employers' rates may be lowered as a result of an increase in the fund balance, not by the application of a more favorable schedule, but by subtracting a specified amount from each rate in a single schedule, by dividing each rate in the schedule by a given figure, or by adding new lower rates to the schedule. A few States with benefit-wage-ratio systems provide for adjusting the State factor in accordance with the fund balance as a means of raising or lowering all employers' rates. Although these laws may contain only one rate schedule, the changes in the State factor, which reflect current fund levels, change the benefit-wage-ratio prerequisite for a given rate.

245.02 RATE REDUCTION THROUGH VOLUNTARY CONTRIBUTIONS.--In about half the States employers may obtain lower rates by voluntary contributions (Table 200). The purpose of the voluntary contribution provision in States with reserve-ratio formulas is to increase the balance in the employer's reserve so that a lower rate is assigned which will save more than the amount of the voluntary contribution. In Minnesota, with a benefit-ratio system, the purpose is to permit an employer to pay voluntary contributions to cancel benefit charges to the account and thus reduce the benefit ratio.

245.03 COMPUTATION DATES AND EFFECTIVE DATES.--In most States the effective date for new rates is January 1; in others July 1. In most States the computation date for new rates is a date 6 months prior to the effective date.

A few States have special computation dates for employers first meeting the requirements for computation of rates (Table 202, footnote 3).

245.04 MINIMUM RATES.--Minimum rates in the most favorable schedules vary from 0 to 1.0 percent of payrolls. Only seven States have a minimum rate of 0.5 percent or more. The most common minimum rates range from 0.1 to 0.4 percent inclusive. The minimum rate in Nebraska depends on the rate schedule established annually by regulation (Table 205).

245.05 MAXIMUM RATES.--Maximum tax rates range from 5.4 percent to 10 percent with the maximum rate in more than half the States at 5.4 percent (Table 205).

245.06 LIMITATION ON RATE INCREASES.--Wisconsin prevents sudden increases of rates by a provision that no employer's rate in any year may be more than 2 percent more than in the previous year. In Oklahoma for employers with rates of 3.4 percent or more, the limitation on the rate increase is 2 percent in any year. For employers with rates below 3.4 percent, their rate may not be increased to more than 5.4 percent in any year.

250 SPECIAL PROVISIONS FOR FINANCING BENEFITS PAID TO EMPLOYEES OF NONPROFIT ORGANIZATIONS AND STATE AND LOCAL GOVERNMENTS

The 1970 and 1976 amendments to the Federal law extended coverage to services performed in the employ of each State and its political subdivisions, and to nonprofit organizations which employed four or more persons in 20 weeks.

(See sec.110 for services that may be excluded from coverage.) However, the method of financing benefits paid to employees of governmental entities and nonprofit organizations differs from that applicable to other employers.

250.01 NONPROFIT ORGANIZATIONS.--The Federal law provides that States must allow any nonprofit organization or group of organizations, which are required to be covered under the States laws, the option to elect to make payments in lieu of contributions. Prior to the 1970 amendments the States were not permitted to allow nonprofit organizations to finance their employees' benefits on a reimbursable basis because of the experience-rating requirements of the Federal law.

State laws permit two or more reimbursing employers jointly to apply to the State agency for the establishment of a group account to pay the benefit costs attributable to service in their employ. This group is treated as a single employer for the purposes of benefit reimbursement and benefit cost allocation.

States may permit noncharging of benefits to reimbursing employers. Unlike contributing employers, who cannot avoid potential liability to share with other contributing employers devices such as minimum contribution rates and solvency accounts in order to keep the fund solvent, reimbursing employers need not be fully liable for benefit costs to their employees and are not liable at all for the cost of any other benefits. Kentucky and West Virginia exempt reimbursing employers from noncharging of benefits.

All States except Alabama and North Carolina provide that employers electing to reimburse the fund will be billed at the end of each calendar quarter, or other period determined by the agency, for the benefits paid during that period attributable to service in their employ. Alabama and North Carolina require a different method of assessing the employer. In these States, each nonprofit employer is billed a flat rate at the end of each calendar quarter, or other time period specified by the agency, determined on the basis of a percentage of the organization's total payroll in the preceding calendar year rather than on actual benefit costs incurred by the organization. However, North Carolina may waive the flat rate assessment under certain conditions. Modification in the percentage is made at the end of each taxable year in order to minimize future excess or insufficient payment. The agency is required to make an annual accounting to collect unpaid balances and dispose of overpayments. This method of apportioning the payments appears to be less burdensome than the quarterly reimbursement method because it spreads the benefit costs more uniformly throughout the calendar year. Seventeen States[5] permit a nonprofit organization the option of choosing either plan, with the approval of the State agency. Arkansas requires the State to use the first plan and nonprofit organizations and political subdivisions who choose reimbursement the second plan.

250.02 STATE AND LOCAL GOVERNMENTS.--The 1976 amendments required States to extend to governmental entities the option of reimbursing the State Unemployment compensation fund for benefits paid as in the case of nonprofit organizations. The Federal law does not require a State law to provide any other financing provisions for governmental entities. Effective December 2000, American Indian tribes are treated similar to State and Local governments.

Most States, however, permit governmental entities to elect either to reimburse the fund for benefits paid or to pay taxes on the same basis as other employers in the State (Table 209). In addition, the legislature of 16 States (Table 209, column 2) have specified by law the method of financing benefits based on service with the State. In all of these States except Oklahoma the method specified is reimbursement. Oklahoma requires the State to pay contributions at a rate of 1.0 percent of wages. A governmental entity which reimburses the fund may be liable for the full amount of extended benefits paid based on service in its employ because the Federal Government does not participate in the cost of these extended benefits attributable to service with governmental entities as it does with other employers.

A few States (Table 209, column 5) have provided, as a financing alternative, contributions systems different than those applicable to other employers in the State. In three of the States, all governmental entities electing to contribute pay at a flat rate--1.0 percent of taxable wages in Oklahoma; 1.5 percent in Tennessee; 2.0 percent in Mississippi. The rates in Delaware, Iowa, North Dakota and Texas are adjusted depending on benefit costs; however, the minimum rate possible for any year in Texas is set at 0.1 percent. North Dakota may suspend these assessments when funds already collected are sufficient to offset anticipated obligations.

Kansas and Massachusetts have developed a similar experience-rating system applicable to governmental entities that elect the contributions method. Under this system three factors are involved in determining rates: required yield, individual experience and aggregate experience. In Kansas the rate for employers not eligible for a computed rate is based

[5] Alaska, California., District of Columbia, Idaho, Maryland, North Dakota, Ohio, Puerto Rico, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, Rhode Island, Washington and West Virginia

on the benefit cost experience of all rated governmental employers. In this State no employer's rate may be less than 0.1 percent. In Massachusetts, the rate for employers not eligible for a computed rate is the average cost of all rated governmental employers but not less than 1 percent. Massachusetts also imposes an emergency tax of up to 1.0 percent when benefit charges reach a specified level.

In Montana, governmental entities that elect contributions pay at the rate of 0.4 percent of wages. Rates are adjusted annually for each employer under a benefit-ratio formula. New employers are assigned the median rate for the year in which they elect contributions and rates may not be lower than 0.1 percent or higher than 1.5 percent, in 0.1 percent intervals. New rates become effective July 1, rather than January 1, as in the case of the regular contributions system.

New Mexico permits political subdivisions to participate in a "local public body unemployment compensation reserve fund" which is managed by the risk management division. This special fund reimburses the State unemployment fund for benefits paid based on service with the participating political subdivision. The employer contributes to the special fund the amount of benefits paid attributable to service in its employ plus an additional unspecified amount to establish a pool and to pay administrative costs of the special fund.

Oregon has a "local government employer benefit trust fund" to which a political subdivision may elect to pay a percentage of its gross wages. The rate is redetermined each June 30 under a benefit-ratio formula. No employer's rate may be less than 0.1 percent nor more than 5.0 percent. This special fund then reimburses the State unemployment compensation fund for benefits paid based on service with political subdivisions that have elected to participate in the special fund and repayments of advances and any interest due because of shortages in the fund.

In Washington, counties, cities and towns have the option of electing regular reimbursement or the "local government tax." Other political subdivisions may elect either regular reimbursement or regular contributions. Rates are determined yearly for each employer under a reserve ratio formula. The following minimum and maximum rates have been established: 0.2 percent and 3.0 percent. No employer's rate may increase by more than 1.0 percent in any year. At the discretion of the Commissioner, an emergency excess tax of not more than 1.0 percent may be imposed whenever benefit payments would jeopardize reasonable reserves. New employers pay at a rate of 1.25 percent for the first two years of participation. In Tennessee governmental entities who are contributing employers will pay rates ranging from 0.3 percent to 3.0 percent determined according to its reserve ratio.

California has three separate plans for governmental entities. The State is limited to contributions or reimbursement. Schools have, in addition to those two options, the option of making quarterly contributions of 0.5 percent of total wages to the School Employee's Fund plus a variable local experience charge to pay for administrative indiscretions.

In Mississippi political subdivisions reimbursing employers may elect to pay 0.5 percent of taxable wages for noncharging of benefits under the same conditions as contributing employers.